



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2746

DATE SCANNED 9/5/13

SCANNER NO. 2

SCAN OPERATOR SES

13092693028



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2013 JUN 19 PM 12: 59

June 19, 2013

MEMORANDUM

**SENSITIVE**

TO: The Commission

THROUGH: Alec Palmer *for PCC*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

BY: Kristin DeCarmine *KD*  
Compliance Branch

SUBJECT: Reason to Believe Recommendation –  
Failure to File 48-Hour Notices under the Administrative Fine Program

Attached is the name of a principal campaign committee that has failed to file 48-hour notices with the Commission for contributions of \$1,000.00 or more received (1) from the close of books for the Rhode Island 12 Day Pre-Primary Report up to 48 hours before the September 11, 2012 Primary Election, and (2) from the close of books for the Rhode Island 2012 12 Day Pre-General Report up to 48 hours before the November 6, 2012 General Election, in accordance with 2 U.S.C. § 434(a) and 11 CFR. § 104.5(f). The committee, Hinokley for US Senate, represents a candidate who won the Primary Election and lost the General Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$57,000.00.

A 48-hour notice is required to report all contributions of \$1,000.00 or more to any authorized committee of a candidate, including contributions from the candidate, loans from the candidate and other non-bank sources and endorsements or guarantees of loans from banks, as per 11 CFR § 104.5(f).

We have attached an information sheet which includes the contributor name, date of receipt, amount of the contribution(s), and the election for which a 48-hour notice was not filed.

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In accordance with the schedule of civil money penalties outlined within 11 CFR § 111.44, this committee should be assessed the civil money penalty so indicated.

**Recommendation**

1. Find reason to believe that Hinckley for US Senate and Peter Gallipeau, Treasurer, violated 2 U.S.C. § 434(a) and make a preliminary determination that a civil money penalty of \$6,250.00 be assessed.
2. Send the appropriate letter.

**Attachment**

13092693030

**Contributions for Which a 48-Hour Notice Was Not Received**

AF 2746

Committee ID: C00494120

Committee Name: Hinckley for US Senate

Report Type: October Quarterly Report (7/1/2012 – 09/30/2012)<sup>1</sup>

30 Day Post-General Report (10/18/2012 – 11/26/2012)

Primary 48-Hour Reporting Period: 8/23/2012 – 9/08/2012

General 48-Hour Reporting Period: 10/18/2012 – 11/03/2012

CONTRIBUTOR NAME	DATE	AMOUNT	REPORTING PERIOD
Bilden, Patricia	8/28/2012	\$2,500.00	PRIMARY
Bilden, Philip	8/28/2012	\$2,500.00	PRIMARY
Hill, Vernon W.	8/28/2012	\$5,000.00	PRIMARY
Byers, Russell Jr.	8/30/2012	\$5,000.00	PRIMARY
Denton, Peter	8/30/2012	\$2,500.00	PRIMARY
Gonzales, Peter W.	8/30/2012	\$2,500.00	PRIMARY
Guertin, David F. Jr.	8/30/2012	\$2,500.00	PRIMARY
Hilleman, Kristen J.	8/30/2012	\$4,000.00	PRIMARY
Musso, Lucia N.	8/30/2012	\$2,500.00	PRIMARY
Purdy, Carroll	8/30/2012	\$5,000.00	PRIMARY
Purdy, Lance J.	8/30/2012	\$5,000.00	PRIMARY
Byers, Anne	8/31/2012 <sup>2</sup>	\$5,000.00	PRIMARY
George, Whitney	8/31/2012 <sup>3</sup>	\$5,000.00	PRIMARY
McKendall, Mariacristina C.	9/7/2012	\$3,000.00	PRIMARY
Davis, Lori	10/22/2012	\$2,500.00	GENERAL
Towles, Kimbough	10/22/2012	\$2,500.00	GENERAL
	<b>TOTAL</b>	<b>\$57,000.00</b>	

**Proposed Civil Money Penalty: 6,250.00 ((5 Notice Not Filed at \$110 each) + (10% of the Overall Contributions Not Filed))**

<sup>1</sup> The coverage dates of the Committee's October Quarterly Report overlapped with its 12-Day Pre-Primary Report (7/1/12 – 8/22/12).

<sup>2</sup> The Committee incorrectly disclosed the date of receipt of the contribution as 9/4/12 and the date of redesignation of \$2,500.00 to the Primary Election as 8/31/12.

<sup>3</sup> The Committee incorrectly disclosed the date of receipt of the contribution as 9/7/12 and the date of redesignation of \$2,500.00 to the General Election as 8/31/12.

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13092693032

Federal Election Commission  
Reason to Believe Circulation Report  
48-Hour Notification Report

6/19/2013 9:26 AM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	Penalty
2746	C00494120	HINCKLEY FOR US SENATE	RI	2012	HINCKLEY, BENJAMIN BARRETT III "BARRY"	PETER GALLIPEAU	0	5	\$57,000	\$6,250

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Reason To Believe Recommendation - ) AF 2746  
Failure to File 48-Hour Notices under the )  
Administrative Fine Program: Hinckley )  
for US Senate and Peter Gallipeau, )  
Treasurer )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on June 21, 2013, the Commission decided by a vote of 5-0 to take the following actions in AF 2746:

1. Find reason to believe that Hinckley for US Senate and Peter Gallipeau, Treasurer, violated 2 U.S.C. § 434(a) and make a preliminary determination that a civil money penalty of \$6,250.00 be assessed.
2. Send the appropriate letter.

Commissioners Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

June 21, 2013  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

13092693033



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 21, 2013

Peter Gallipeau, in official capacity as Treasurer  
Hinckley for US Senate  
16 Gibbs Avenue  
Newport, RI 02840

C00494120  
AF#: 2746

Dear Mr. Gallipeau:

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Federal Election Commission ("FEC"), and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* These notification requirements are in addition to all other reporting requirements. 2 U.S.C. § 434(a). Our records indicate that Hinckley for US Senate did not submit 48-Hour Notices for contributions of \$1,000 or more, received between August 28, 2012 and October 22, 2012, totaling \$57,000, as required by 2 U.S.C. § 434(a)(6)(A). Attachment 1.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On June 20, 2013, the FEC found that there is Reason to Believe ("RTB") that Hinckley for US Senate and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$6,250. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. The amount of the civil money penalty is \$110 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment of \$6,250 within forty (40) days of the finding, or by July 30, 2013.

At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

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If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or July 30, 2013. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to: (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Hinckley for US Senate and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate

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action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

### 3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

## **NOTICE REGARDING PARTIAL PAYMENTS AND SETTLEMENT OFFERS**

### 4. Partial Payments

If you make a payment in an amount less than the calculated civil money penalty, the amount of your partial payment will be credited towards the full civil money penalty that the Commission assesses upon making a final determination.

### 5. Settlement Offers

If you make a payment in an amount less than the calculated civil money penalty as an offer to settle or compromise a debt owed to the Commission, the offer is herewith rejected despite any restrictive endorsements contained on your check or money order or proposed in correspondence transmitted with your check or money order. Acceptance and deposit or cashing of such a restricted payment does not constitute acceptance of the settlement offer. Payments containing restrictive endorsements will be deposited and treated as a partial payment towards the civil money penalty that the Commission assesses upon making a final determination. All unpaid civil money penalty amounts remaining will be subject to the debt collection procedures set forth in Section 2, above.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 CFR § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact David Garr in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Ellen L. Weintraub  
Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.44, the amount of your civil money penalty calculated at RTB is \$6,250 for the 2012 General Election 48-Hour Notification Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by July 30, 2013. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
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FOR: Hinckley for US Senate

FEC ID#: C00494120

AF#: 2746

PAYMENT DUE DATE: July 30, 2013

PAYMENT AMOUNT DUE: \$6,250

13092693037

**Contributions for Which a 48-Hour Notice Was Not Received**

AF 2746

Committee ID: C00494120

Committee Name: Hinckley for US Senate

Report Type: October Quarterly Report (7/1/2012 – 09/30/2012)<sup>1</sup>

30 Day Post-General Report (10/18/2012 – 11/26/2012)

Primary 48-Hour Reporting Period: 8/23/2012 – 9/08/2012

General 48-Hour Reporting Period: 10/18/2012 – 11/03/2012

CONTRIBUTOR NAME	DATE	AMOUNT	REPORTING PERIOD
Bilden, Patricia	8/28/2012	\$2,500.00	PRIMARY
Bilden, Philip	8/28/2012	\$2,500.00	PRIMARY
Hill, Vernon W.	8/28/2012	\$5,000.00	PRIMARY
Byers, Russell Jr.	8/30/2012	\$5,000.00	PRIMARY
Denton, Peter	8/30/2012	\$2,500.00	PRIMARY
Gonzales, Peter W.	8/30/2012	\$2,500.00	PRIMARY
Guertin, David F. Jr.	8/30/2012	\$2,500.00	PRIMARY
Hilleman, Kristen J.	8/30/2012	\$4,000.00	PRIMARY
Musso, Lucia N.	8/30/2012	\$2,500.00	PRIMARY
Purdy, Carroll	8/30/2012	\$5,000.00	PRIMARY
Purdy, Lance J.	8/30/2012	\$5,000.00	PRIMARY
Byers, Anne	8/31/2012 <sup>2</sup>	\$5,000.00	PRIMARY
George, Whitney	8/31/2012 <sup>3</sup>	\$5,000.00	PRIMARY
McKendall, Mariacristina C.	9/7/2012	\$3,000.00	PRIMARY
Davis, Lori	10/22/2012	\$2,500.00	GENERAL
Towles, Kimbough	10/22/2012	\$2,500.00	GENERAL
	TOTAL	\$57,000.00	

**Proposed Civil Money Penalty: \$6,250.00 ((5 Notice Not Filed at \$110 each) + (10% of the Overall Contributions Not Filed))**

<sup>1</sup> The coverage dates of the Committee's October Quarterly Report overlapped with its 12-Day Pre-Primary Report (7/1/12 – 8/22/12).

<sup>2</sup> The Committee incorrectly disclosed the date of receipt of the contribution as 9/4/12 and the date of redesignation of \$2,500.00 to the Primary Election as 8/31/12.

<sup>3</sup> The Committee incorrectly disclosed the date of receipt of the contribution as 9/7/12 and the date of redesignation of \$2,500.00 to the General Election as 8/31/12.

13092693038



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2013 JUL 31 PM 3:41

July 31, 2013

MEMORANDUM

**SENSITIVE**

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Debbie Chacona *DC*  
Assistant Staff Director  
Reports Analysis Division

BY: Kristin DeCarmin/David Garr *KD*  
Compliance Branch

SUBJECT: Administrative Fine Program – Final Determination Recommendation for the Failure to File 48-Hour Notices

Attached is a list identifying a political committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file or failure to timely file the appropriate 48 Hour Notices for the Rhode Island 2012 Primary and General Elections. The committee has paid the civil money penalty requested at RTB.

In accordance with 11 CFR § 111.34, the Commission shall send a final determination notice to the respondent that has paid the civil money penalty.

**RAD Recommendation**

- (1) Make final determination that the political committee and its treasurer listed on the attached report violated 2 U.S.C. § 434(a) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

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13092693040

Federal Election Commission  
Final Determination Circulation Report  
48-Hour Notification Report

7/31/2013 10:54 AM

AF#	Committee ID	Committee Name	State	Election	Candidate Name	Treasurer	Prev Violations	Notices Not Filed	LOA	RTB Date	RTB Penalty	FD Penalty	Date Paid	Amount Paid
2746	C00484120	HINKLEY FOR US SENATE	RI	2012	HINKLEY, BENJAMIN BARRETT III "BARRY"	PETER GALLIPEAU	0	5	\$57,000	06/20/2013	\$6,250	\$6,250	07/30/2013	\$6,250

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Administrative Fine Program - Final ) AF 2746  
Determination Recommendation for the )  
Failure to File 48-Hour Notices: )  
Hinckley for US Senate and Peter )  
Gallipeau, Treasurer )

AMENDED CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election  
Commission, do hereby certify that on August 01, 2013, the Commission  
decided by a vote of 5-0 to take the following actions in AF 2746:

1. Make final determination that Hinckley for US Senate and Peter Gallipeau, Treasurer violated 2 U.S.C. § 434(a) and assess the final civil penalty in the amount of \$6,250.
2. Send the appropriate letter.

Commissioners Hunter, McGahn II, Petersen, Walther, and Weintraub  
voted affirmatively for the decision.

Attest:

September 3, 2013  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

13092693041



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 2, 2013

Peter Gallipeau, in official capacity as Treasurer  
Hinckley for US Senate  
16 Gibbs Avenue  
Newport, RI 02840

C00494120  
AF#: 2746

Dear Mr. Gallipeau:

On June 20, 2013, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Hinckley for US Senate and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between August 28, 2012 and October 22, 2012, totaling \$57,000. By letter dated June 24, 2013, the Commission notified you of the RTB finding and the civil money penalty calculated at the RTB stage totaling \$6,250 in accordance with the schedule of penalties at 11 CFR § 111.44.

On July 30, 2013, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on August 1, 2013 that Hinckley for US Senate and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a), assessed a civil money penalty in the amount of \$6,250 in accordance with 11 CFR § 111.44 and voted to close the file.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 CFR § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding this matter, please contact David Garr on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink that reads "Ellen L. Weintraub". The signature is written in a cursive, flowing style.

Ellen L. Weintraub  
Chair

13092693042

FOR: Hinckley for US Senate

FEC ID#: C00494120

AF#: 2746

PAYMENT DUE DATE: July 30, 2013

PAYMENT AMOUNT DUE: \$6,250

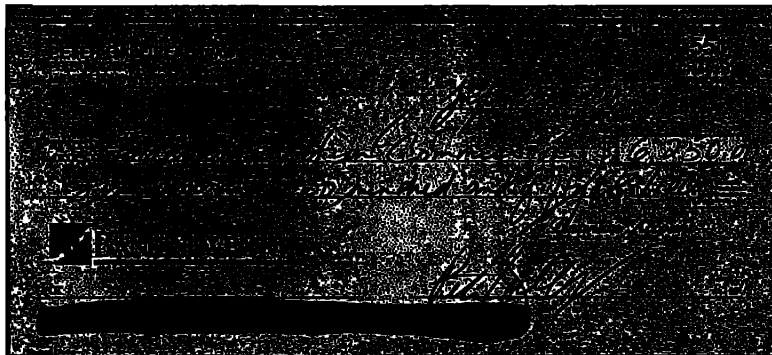
FEDERAL ELECTION COMMISSION

Lockbox: GLX-979058 Ledger Date 07/29/2013

13092693043

**usbank.**

St. Louis GA Lockbox  
(314) 425-1818



Batch	Item	TID	Batch Total	Amount
1	2	Y-4289678	\$7,405.00	\$6,250.00





FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2746

DATE SCANNED

9/5/13

SCANNER NO.

2

SCAN OPERATOR

EEJ

13092693044